

KANTOR, DAVIDOFF, WOLFE,
MANDELKER & KASS, P.C.
By: Matthew C. Kesten (MK 6099)
By: Daniel S. Kokhba (DK-5501)
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Attorneys for Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ERICK MENDEZ, CARLOS LEON, JESUS GARCIA,
ALEJANDRO RAMOS, AND ANGEL RODRIGUEZ,
individually and on behalf of others similarly situated,

Docket No. 07 Civ 8428 (HB)

Plaintiffs,

- against -

ANSWER

NONNA RESTAURANT CORP. d/b/a ROC
RESTAURANT, ROCCO CADOLINI, and
ELIO GUAITOLINI,

Defendants.
-----X

Defendants, by their attorneys, Kantor, Davidoff, Wolfe, Mandelker & Kass, P.C.,
as and for their answer to the complaint herein, allege as follows:

1. Defendants deny the allegations contained in paragraphs 4, 13, 16, 17,
18, 19, 21, 25, 31, 32, 34, 35, 38, 39, 40, 42, 43, 44, 46, 47 and 48 of the complaint.

2. Defendants deny the allegations contained in paragraph 1 of the
complaint, except admit that plaintiffs were formerly employed by defendant Nonna
Restaurant Corp. d/b/a Roc Restaurant ("Nonna").

3. Defendants neither admit nor deny the allegations contained in
paragraphs 5 and 7 of the complaint as they contain non-factual allegations or legal
conclusions to which defendants are not required to respond, except defendants deny

any suggestion therein that they engaged in any wrongful conduct or that certification of this action as a collective action is necessary or appropriate.

4. Defendants deny the allegations contained in paragraphs 8, 9, 10, 11 and 12 of the complaint, except (a) deny knowledge or information sufficient to form a belief with respect to the truth of the claims concerning plaintiffs' residences, (b) admit that plaintiffs were employed by Nonna as delivery persons, (c) upon information and belief, admit that from time to time plaintiffs may have performed other services, and (d) presently deny knowledge or information sufficient to form a belief with respect to the truth of the claims concerning the payments to and exact hours worked by plaintiffs and the exact time periods that they worked for Nonna, but deny any claim or suggestion that plaintiffs were obligated or required to work in excess of 40 hours per week.

5. Defendants deny the allegations contained in paragraph 20 of the complaint, except, upon information and belief, admit that from time to time Nonna requested that its employees sign receipts.

6. With respect to paragraphs 27, 33, 36, 41, and 45 of the complaint, defendants repeat the allegations set forth above, as if fully set forth herein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

7. The complaint fails to state claims upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

8. The claims asserted in the complaint are barred in whole or in part by the statute of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

9. The claims asserted in the complaint are barred in whole or in part by the doctrine of laches.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

10. The claims asserted in the complaint lack specificity.


AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

11. Plaintiffs may not maintain an action on behalf of others "similarly situated" in that plaintiffs have not referenced a policy or plan to which other employees are or were subject, nor to any company policy or plan at all.

WHEREFORE, defendants respectfully demand judgment in their favor and against plaintiffs, dismissing the complaint, awarding defendants their costs and disbursements incurred herein, and granting such other and further relief as the Court may deem just and proper.

Dated: New York, New York
November 12, 2007

KANTOR, DAVIDOFF, WOLFE,
MANDELKER & KASS, P.C.
Attorneys for Defendants

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TO:

MICHAEL FAILLACE & ASSOCIATES, P.C.
Attorneys for Plaintiffs
110 East 59th Street, 32nd Floor
New York, NY 10022
(212) 317-1200

AFFIDAVIT OF SERVICE


STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

JOAN ABBATEMARCO, being duly sworn, deposes and says:

1. I am not a party to this action, am over 21 years of age and reside in Richmond County, New York.

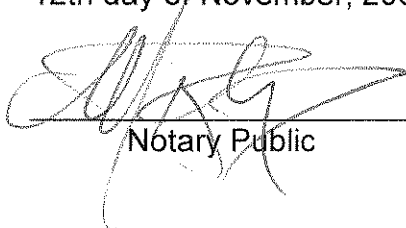
2. On the 12th day of November, 2007, I served the within **ANSWER** by mailing a true copy, by first-class mail, to each of the following persons at the last known address set forth after each name:

MICHAEL FAILLACE & ASSOCIATES, P.C.
Attorneys for Plaintiffs
110 East 59th Street, 32nd floor
New York, New York 10022



JOAN M. ABBATEMARCO

Sworn to before me this
12th day of November, 2007



Notary Public

MATTHEW C. KESTEN
Notary Public, State of New York
No. 02KE4841667
Qualified in Westchester County
Commission Expires June 30, 2011